UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CLEVELAND WEST	§	
	§	CIVIL ACTION
Plaintiff,	§	
VS.	§	NO. 16-348
	§	
THE UNITED STATES OF AMERICA	§	
	§	
Defendant.	§	

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, CLEVELAND WEST, hereinafter referred to as Plaintiff, complaining of THE UNITED STATES OF AMERICA hereinafter referred to as Defendant and for cause of action, would respectfully show as follows:

A. Parties

1. Plaintiff CLEVELAND WEST, is an individual who resides in Mobile, Mobile County, Alabama.

2. Defendant, THE UNITED STATES OF AMERICA, is the owner of the vessel SS Pollux. The SS Pollux is an Algol-class vehicle cargo ship that is maintained by the United States Maritime Administration. Defendant may be served with process by serving the following:

a. Loretta E. Lynch, Attorney General, United States Department of Justice, 950 Pennsylvania Ave. NW, Washington, DC 20530-001;

b. John Malcom Bales, United States Attorney's Office, 350 Magnolia Avc., Suite 150, Beaumont, Texas 77701-2237;

c. Civil Process Clerk, United States Attorney's Office, 350 Magnolia Ave., Suite 150, Beaumont, Texas 77701-2237.

B. Venue

3. The SS Polux is currently in Orange, County, Texas.

4. Venue is proper in this District. 46 U.S.C. § 31104(a) ("A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.").

C. Jurisdiction

5. Plaintiff is a seaman and brings this action pursuant to the Suits in Admiralty Act, 46 U.S.C. § 30901, et seq. and the Public Vessels Act, 46 U.S.C. § 31101, et seq.

D. Factual Summary

6. Plaintiff is an American citizen and an American seaman.

7. Plaintiff would show that this lawsuit has become necessary as a result of personal injuries sustained on or about August 26, 2014.

8. On that date, Plaintiff was employed by Keystone Shipping (One Bala Plaza East, Suite 600, Bala Cynwyd, PA, 19004-1496) working on SS Pollux as an AB-Bosun. On information and belief, the SS Pollux was operated by Keystone Ocean Services, Inc.

9. SS Pollux is an Algol-class vehicle cargo ship that is currently maintained by the United States Maritime Administration as part of the Ready Reserve Force (RRF).

10. On the date of the accident, the vessel was near Dauphin Island, Alabama.

11. On the date of the accident, the chief mate told Plaintiff to go and complete the job of cutting a chain with a grinder. The grinder did not have a safety guard and was in disrepair. While operating the grinder, it cut his hand and thumb.

E. Causes of Action

Negligence

12. At all relevant times, Plaintiff was in the course and scope of his employment. The actions and/or inactions of the Defendant, its agent (Keystone Shipping and Keystone Ocean Services), and/or it or its agent's officers, agents and/or employees constitute negligence. The negligence of the Defendant and its agent was a proximate and/or producing cause of Plaintiff's injuries and damages.

13. Defendant and its agent were negligent in the following ways:

a. Failing to provider a grinder that was in good working order;

b. Failing to provide a safe place to work;

c. Failing to implement policies that would have eliminated the possibility of the accident;

d. Failing to provide a competent crew;

e. Failing to provide the proper tools and equipment;

f. Other acts deemed negligent.

Unseaworthiness

14. Defendant and its agent owed a duty to Plaintiff to maintain the vessel in a seaworthy condition. Plaintiff will show that the vessel was unseaworthy and that said unseaworthiness was a proximate and/or producing cause of Plaintiff's injuries for the reasons stated in the negligence section. Those allegations are incorporated herein.

Maintenance and Cure

15. Plaintiff would show that on the above-mentioned dates, he was injured while in the course and scope of his employment.

16. Defendants and its agent owe maintenance and cure

F. Damages

17. As a direct and proximate result of Defendant's conduct, Plaintiff suffered the following injuries and damages:

a. Plaintiff has been forced to incur reasonable and necessary medical expenses in the past, and in all reasonable medical probability, will continue to incur reasonable and necessary medical expenses in the future;

b. Plaintiff has endured physical pain and suffering in the past, and in all reasonable medical probability, will continue to endure physical pain and suffering in the future;

c. Plaintiff has suffered mental anguish in the past, and in all reasonable medical probability, will continue to suffer mental anguish into the future;

d. Plaintiff has suffered physical impairment in the past and, in all reasonable medical probability, will continue to suffer physical impairment into the future;

e. Plaintiff has suffered physical disfigurement in the past and, in all reasonable medical probability, will continue to suffer physical disfigurement into the future; and

f. Plaintiff has suffered lost earnings in the past and, in all reasonable probability, will continue to suffer loss of earning capacity into the future.

18. Plaintiff further seeks recovery of punitive damages under general maritime law.

G. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that, after trial on the merits, he have judgment against Defendants, for the following:

- a sum in excess of the minimum jurisdictional limits of this Honorable Court;
- pre-judgment interest thereon at the maximum legal rate;
- post-judgment interest thereon at the maximum legal rate;
- costs of Court; and,
- any and all such other and further relief, be it general or special, at law or in equity, to which Plaintiff may be justly entitled.

Dated: August 22, 2016.

Respectfully submitted,

GORDON, ELIAS & SEELY, L.L.P.

By: s/ Jeff Seely

Jeff Seely
Fed. ID: 30081
SBN: 24033172
1811 Bering Drive, Suite 300
Houston, Texas 77057
(713) 668-9999 - Telephone
(713) 668-1980 - Telecopier
jseely@geslawfirm.com

ATTORNEY FOR PLAINTIFF,
CLEVELAND WEST